

Rockville City Police Department

GENERAL ORDER



Subject RESPONSE TO RESISTANCE AND AGGRESSION		Procedure G.O. # 4 - 1
Authorizing Signature	Effective: 02-29-2012 Revised: 10-18-2016	Total Pages 14

I. POLICY

- A. Police officers are frequently confronted with violence, aggression, and resistance to lawful authority. Officers in such circumstances may be required to use force to overcome that violence, aggression and resistance. This is one of the most critical decisions that officers face in a free society. This General Order provides guidance for officers in such circumstances.
- B. Officers will only use what force is objectively reasonable to make an arrest, an investigatory stop/detention or other seizure, in the performance of their lawful duties, to protect themselves or others from personal attack, physical resistance, harm or death.
- C. The decision to use force, whether deadly or non-deadly, must be based on the circumstances that an officer reasonably believes to exist. The decision to use force is predicated upon the danger the suspect poses to the officer or others. In determining the appropriate level of force to be used by an officer, the nature of the threat or the resistance faced or perceived by the officer as compared to the force employed should be considered. Factors to be considered in assessing the level of force to be used include, but are not limited to the following:
 1. The severity of the crime at issue,
 2. Whether the subject poses an imminent threat to the safety of the officers or others, and
 3. Whether the subject is actively resisting arrest or the subject is attempting to evade arrest by flight.
- D. All officers have a number of force options available to use in those situations where force is objectively reasonable. Examples may include but are not limited to:
 1. Subduing or arresting a physically assaultive person.
 2. Instances that reasonably threaten the safety of an officer or other person.
 3. Stopping a person who is attempting to flee or escape a lawful detention or arrest.
 4. When directing, controlling, or escorting resistive or physically uncooperative persons.

5. Other situations where persons who are being placed into custody are non-compliant or resistant to other lawful orders.

II. DEFINITIONS

A. Deadly Force

Any use of force, which is intended or likely to cause death or substantial risk of death or serious physical injury. In addition to firearms, deadly force includes the use of unarmed techniques or less lethal weapons in a manner, which is intended, or would likely cause death or substantial risk of death or serious physical injury.

B. Foreign Jurisdictions

Any jurisdiction where the officer does not have police authority.

C. Imminent

Likely to happen without delay; impending; threatening.

D. Less Lethal Weapon (Protective Instruments)

Any device authorized by the department and utilized by a police officer, to apply force to another individual, e.g. O.C. spray, electronic control device (ECD), expandable baton, flashlight, etc.

E. Non-Deadly Force

Any use of force other than that which is considered deadly force.

F. Objectively Reasonable Force

That level of force which is appropriate when analyzed from the perspective of a reasonable officer possessing the same information and faced with the same circumstances as the officer who actually utilized the force.

G. Passive Resistance

A refusal by an unarmed person to comply with an officer's verbal command or physical control techniques in such a way that the subject does not use physical force, or resistance of any kind.

H. Probable/Reasonable Cause

Facts and circumstances that would lead a reasonable person with a police officer's experience and training to believe that a crime has been committed, and a particular individual has committed that crime.

I. Serious Physical Injury

Bodily injury that creates a substantial risk of death, causes serious, permanent disfigurement or results in long term loss or impairment of any bodily member or organ.

J. Scene

The location(s) where force was utilized during an event.

III. LEVELS OF FORCE

An officer may encounter situations that require not only the officer's presence, but some form of verbal or non-verbal communication. This communication may take the form of providing information, giving commands, physical gestures or directions, asking or answering questions, conducting interviews, etc. It may also take the form of issuing specific instructions to individuals or groups, dealing with arguments, verbal assaults, or threats, handling disputes, disagreements, etc. The department recognizes that some situations require the application of force.

A person need not strike or attempt to strike an officer to be considered a physical threat as long as an officer has an objectively reasonable belief (verbal threats, verbal defiance, physical stance, etc.) that the person is physically threatening and has the present ability to harm the officer or another. Examples of actions or observations that may lead an officer to believe that a person is a threat include, but are not limited to, clinched fists, displayed hostility or anger, verbal threats, aggressive stance, non-compliance, and furtive movements, among other things. Under the law, officers are not obligated to retreat when confronted with a threat. The department relies on the officer's judgment and discretion to employ objectively reasonable force under each unique circumstance.

A. There are four levels of response to resistance and aggression. Officers respond as objectively reasonable and necessary. It is acknowledged that higher levels of response may be less injurious than lower levels in specific circumstances.

1. Physical Presence / Verbal Communication – Physical presence and verbal communication skills frequently resolve conflicts.
2. Physical Force – Officers may be required to use unarmed response techniques to overcome resistance or aggression. These techniques may range from control methods to actions that may result in severe injury or death.

3. Protective Instruments - Less lethal weapons may be used to respond to resistance or aggression when unarmed techniques pose a reasonable possibility of injury or death to the officer, suspect or others.
4. Deadly Force – Deadly force includes the use of firearms, less lethal weapons, unarmed response options or other techniques likely to cause death or serious bodily injury.

B. Authorized Use of Deadly Force

1. Defense of Self or Another

Officers may use deadly force to defend themselves or another person from what they reasonably believe is an imminent threat of death or serious physical injury. The United States Supreme Court has ruled that any use of deadly force must be objectively reasonable. This standard will be applied to all uses of deadly force regardless of whether or not a suspect is fleeing when an officer employs deadly force.

2. Fleeing Felon

- a. Officers may use deadly force to apprehend a fleeing felon when they have reasonable cause to believe the suspect fleeing poses an imminent threat of death or serious physical injury to themselves or others, or:
- b. Officers may use deadly force to apprehend a fleeing felon when:
 - (1) There is probable cause to believe the crime committed was a felony of a violent type (one which involved the infliction or threatened infliction of serious physical harm or death), and
 - (2) There is probable cause to believe the person fleeing committed the crime or the person fleeing escaped while being held in legal custody as a suspect in a felony of a violent type, and
 - (3) Failure to immediately apprehend the person may place the officer, another law enforcement officer, or the public in imminent danger of death or serious physical injury.

NOTE: The officer's decision to use deadly force against a fleeing felon will be judged by the reasonableness of his/her actions given the facts and circumstances available to the officer at the time the force is employed. It will be judged more so on the circumstances of the immediate situation presented to the officer, than on the type of crime committed. Section III.B.2 above, will be the controlling criterion.

C. Non-Deadly Force

1. Non-deadly force may be used to respond to resistance or aggression when reasonable in order to effect arrests, to safely make or maintain an investigative detention or seizure, or to protect officers from personal attack, physical resistance, or injury, provided the force applied is reasonable and based upon the immediate circumstances confronting the officer at the time.
2. Non-deadly force may include unarmed response options (hands/body), the use of less lethal weapons, or other techniques.

D. Other

1. Discharge of Firearms to Destroy Animals
 - a. The discharge of firearms to destroy dangerous and/or injured animals (where no other alternatives are reasonably available), to relieve their suffering, is authorized and requires completion of the Use of Deadly Force on Animal Report (RCPD form # 25). Factors taken into account must include backstop, location, etc.
 - b. If an officer destroys a dangerous or vicious animal, either domestic or non-domestic, that presents a threat to the safety of the officer or another, an incident report shall be completed in addition to RCPD Form#25. Officers who are confronted by dangerous animals are encouraged to consider the use of non-firearm alternatives, to include an ECD. RCPD Form#25 must also be completed when an officer uses a protective instrument against a dangerous or vicious domestic animal.
2. Exigent Circumstances

The Rockville City Police Department will authorize appropriate firearms and less lethal weapons and provide training in their lawful use. In exigent circumstances, officers are not prohibited from using another object or instrument in order to protect themselves or others as long as the object is used in accordance with the limitations on force contained in this policy.

3. Display of Weapons

Firearms and less than lethal weapons may be drawn whenever officers have reason to fear for their safety or the safety of others.

4. Bystanders

When discharging a firearm for any reason, officers must exercise reasonable caution in order to avoid unnecessarily endangering the lives of bystanders. When possible, officers should give consideration to shooting background, bystanders, and location.

5. Summon Aid

As a last resort, a firearm may be fired to summon aid.

E. Prohibited Use

1. Warning Shots

The use of warning shots is prohibited.

2. Shots from, or at, Moving Vehicles

- a. Officers are prohibited from intentionally placing themselves in the path of a moving vehicle where an officer's use of deadly force would be the probable outcome. When confronted by an oncoming vehicle, officers will move out of its path, if possible, rather than fire at the vehicle.
- b. Shots fired at or from a moving vehicle are prohibited unless the circumstances would authorize the use of deadly force. Shots fired at or from moving vehicles, present a potential danger to innocent persons, and are usually ineffective. They cannot be depended upon with any degree of certainty.

F. Medical Treatment

- 1. Officers and supervisors will be required to obtain medical treatment for individuals:
 - a. Who show signs of any injury as a result of any response to resistance and aggression.
 - b. Who complain of any injury as a result of any response to resistance and aggression.
 - c. Who become unconscious either during or following any response to resistance and aggression.
 - d. When the officer or supervisor reasonably believes an individual is in need of medical treatment as a result of any response to resistance and aggression.

- e. Who show obvious signs that chemical restraint may be necessary. Officers must specifically request an Advanced Life Support (ALS) unit. ALS units carry medication such as Haldol or Ketamine which can assist in treating individuals suffering from excited or agitated delirium.
 - f. Who have been exposed to an ECD (MCFRS ambulance medical treatment is an appropriate level of care: no hospital/emergency medical center visit is required.)
- 2. Medical treatment will be provided immediately or as soon as practical and will not be refused for any individual who requests it. For the purposes of this General Order, medical treatment may be performed by responding Department of Fire Rescue Services (DFRS), emergency medical personnel at the scene of the incident, or by hospital personnel. Once on the scene, DFRS personnel will advise police personnel of the need for further medical care beyond that provided at the scene.
 - 3. Individuals exposed to OC spray usually display predictable reactions. Officers certified in OC spray and are trained to recognize these reactions may provide field remediation of OC in accordance with their training. Unless other circumstances require, individuals exposed to OC spray will not require medical treatment.
 - 4. If safety circumstances reasonably dictate moving the subject to another location, officers may have emergency medical personnel meet the officers at a nearby location to assess the subject and render aid.

IV. CUSTODIAL RESPONSIBILITIES

A. Important considerations

Officers must be mindful of certain indicators and/or conditions when detaining or arresting a person. The following conditions and/or indicators may potentially contribute to sudden unexpected death. Following extreme physical exertion and/or restraint;

- 1. Excited Delirium: State of extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, euphoria, hostility, exceptional strength, and endurance without fatigue.
- 2. Alcohol or drug use/abuse
- 3. Obesity
- 4. Display of erratic/psychotic behavior
- 5. Incoherent speech
- 6. State of agitation
- 7. Subject intentionally injuring themselves
- 8. Subject disrobing or naked

Officers must recognize these factors and closely monitor a subject in custody in the aftermath of a struggle when one or more of the above indicators are present and the scene is secure.

- B. Officers must take appropriate measures so that the individual being transported is able to breathe without restriction and if possible should lay the subject on their side or seated in an upright position. Officers should avoid transporting subjects in a face-down position whenever possible. Additionally, officers should avoid transporting a person in a position which places pressure on the ECD probes.

- C. Medical Emergencies

Officers must immediately summon emergency medical assistance if the subject exhibits or complains of trouble breathing, becomes unresponsive, exhibits reduced level of consciousness, or if in the officers opinion the subject requires evaluation or medical treatment.

V. RESPONSE TO RESISTANCE AND AGGRESSION REPORTING REQUIREMENTS

- A. The Response to Resistance and Aggression Report (RRAR) will be completed individually by each officer involved any time force is used, which:
 - 1. Results in an injury or death to an individual.
 - 2. Where the individual claims that he/she is injured as a result of the amount of force used.
 - 3. Where force is applied by the use of a less lethal weapon.
 - 4. Where any physical force is applied to the extent it is likely to cause or lead to unforeseen injury, claim of injury or allegations of excessive force.
 - 5. Whenever a firearm is discharged other than authorized target practice.

NOTE: A Response to Resistance and Aggression Report is not needed in those instances of accidental firearm discharges or in those instances where a firearm is displayed to assure officer safety.

- B. The form will be completed no later than twenty-four hours after the end of the shift on which the response to resistance and aggression occurred, and forwarded to the Chief of Police, via the chain of command. This form will be used administratively to evaluate the response to resistance and aggression department-wide and will not be used in any subsequent internal investigation.
- C. If the submission of the RRAR will take longer than the required time frame, the Bureau Commander will be notified of the delay and the reason for the delay. The Bureau Commander or Bureau Commander's designee will determine a due date for submission of the RRAR.

- D. The Chief of Police will designate a Senior Police Official to conduct an annual documented analysis of its use of force activities, policies and practices with the assistance of the department's response to resistance instructors. The Senior Police Official will report the analysis and the results to the Chief of Police.

VI. RESPONSIBILITIES

A. Officer

1. Officers will report immediately to their supervisor any use of force.
2. Officers will report any firearm discharge (except for any authorized range practice).
3. Officers will notify the on duty shift supervisor or the on call Senior Police Official of any accidental discharge that does not result in an injury or death. The shift supervisor or Senior Police Official will initiate the appropriate investigation as outlined in General Order # 2- 6 PERSONNEL AND ADMINISTRATIVE COMPLAINTS.
4. Officers will complete or provide information for the completion of event reports, charging documents, and the Response to Resistance and Aggression Report. An event report MUST be completed prior to the end of the shift whenever a Response to Resistance and Aggression report is completed.
5. Officers will complete any other reporting requirements.
6. Off-duty officers involved in a reportable use of force incident will immediately report the event to the on-duty supervisor.

B. Shift Supervisor

1. Review for completeness the Response to Resistance and Aggression Report submitted by the officer.
2. Complete the Supervisor's Section.
3. Forward Response to Resistance and Aggression Report to their respective Bureau Commander for assignment to an appropriate certified instructor in the discipline of force that was used, prior to the end of the tour of duty on the day on which it is received.
4. Immediately notify the on duty/on call Senior Police Official of all firearm discharges by employees except for authorized range practice or for the purpose of destroying animals. This includes all intentional and accidental firearm discharges, regardless of whether the involved employee is on duty or off duty.

5. Submit the original event report for discharge of a firearm. The investigator assigned the follow-up investigation will file any supplemental report(s).
6. Ensure that officers fulfill all event-reporting procedures as outlined in the Field Reporting Manual and this General Order by the end of the shift.
7. Complete the Response to Resistance and Aggression Report and ensure an event report is completed if the officer is unable to complete.
8. On-duty supervisors will ensure that off-duty officers involved in reportable use of force events fulfill the requirements of section VI.A. and B. of this General Order.

C. Certified Instructor's Review

1. Once assigned by a Bureau Commander, this will be completed by a certified instructor in the discipline of force that was used.
2. Review for completeness the Response to Resistance and Aggression Report submitted.
3. Review for appropriate use of force.
4. Complete the certified instructor's section.
5. Forward Response to Resistance and Aggression Report to the appropriate Bureau Commander by the end of the tour of duty on which it was received.

D. Bureau Commander

1. Review for completeness the Response to Resistance and Aggression Report submitted.
2. Review the comments of the supervisor and certified instructor.
3. Initial in the appropriate box and complete the comment section.
4. Forward Response to Resistance and Aggression Report to the Chief of Police as soon as practical.

E. Chief of Police

1. Review for completeness the Response to Resistance and Aggression Report submitted.
2. Review the comments of the supervisor, certified instructor, and Bureau Commander.
3. Initial in the appropriate box and complete the comment section.

- F. Investigations of Officer-Involved Shootings and Other High Level Response to Resistance and Aggression
1. The on duty/on call Senior Police Official will be immediately notified of any officer involved shooting or other response to resistance and aggression, which results in death or serious injury. The Senior Police Official will ensure that the Chief of Police is notified in a timely manner.
 2. The Chief of Police will assign an officer to conduct a complete investigation into the incident. The investigating officer will provide a written report and determine whether the response to resistance and aggression was within Rockville Police Department Policy.
 3. Supervisors and investigating officers are cautioned not to treat involved officers as criminal suspects merely because they have been involved in a response to resistance and aggression.
 - a. Avoid confiscating an officer's weapon within public view.
 - b. Do not transport an officer in the back of a prisoner transport vehicle.
 - c. Do not place an officer in a holding cell or a locked interview room.
 - d. Ensure an officer has access to medical care even if he or she is not apparently injured.
 - e. Allow an involved officer to contact family or friends.
 - f. Ensure that an officer's rights under the LEOBR and Rockville City Police Department regulations are protected.
 4. If an officer's service weapon is taken as evidence, the supervisor will ensure that the officer is provided with a replacement weapon before the end of the tour of duty. The replacement weapon will not be provided if the supervisor reasonably believes that the officer is too mentally distraught to possess a firearm or if criminal charges against the officer are anticipated.
 5. Requirements for range qualifications with the replacement sidearm will be temporarily waived until a firearm instructor can schedule a qualification session.

6. The Department will assign a liaison officer to assist an outside agency conducting an investigation into the response to resistance and aggression by a Rockville City Police Officer. Unless refused by the involved officer, the liaison will be present during any interview or interrogation of a Rockville City Police Officer.

VII. DEPARTMENTAL SHOOTING INVESTIGATION PROCESS

- A. The department shooting investigation process will be used to investigate EVERY incident of a firearm discharge other than authorized target practice and destroying injured or dangerous animals.
 1. Shift Supervisor Responsibility:
 - a. A supervisor will be dispatched to the scene of the incident, and will assume responsibility for caring for the involved personnel. The supervisor will secure the scene until relieved by investigative personnel or a higher-ranking authority.
 - b. The supervisor will make appropriate arrangements for all necessary medical treatment.
 - c. During any period where the involved officer is required to remain on the scene, but has no immediate duties to fulfill, the officer shall be taken to a quiet area away from the scene of the incident.
 - d. The supervisor should briefly meet with the involved officer(s) and preliminary questions should be asked about the incident, but in a minimal capacity. A walk through of the incident may be conducive to understanding how the incident transpired.
 - e. The officers should be advised that a more detailed debriefing would be conducted at a later time.
 - f. The supervisor should arrange for the officers directly involved in the incident to leave the scene as soon as possible, and to be taken directly to a quiet secure setting at the police station where they will be turned over to an investigator from the Criminal Investigation Unit.
 - g. The senior ranking officer on the scene may wish to contact ECC to activate the County Police Peer Support Team.
 2. Whenever a firearm is used in the performance of duty, the incident will be investigated by the Criminal Investigations Unit. The Criminal Investigations Unit will conduct a complete investigation and report the findings directly to the Chief of Police. It shall be the duty of the Criminal Investigations Unit to notify the State's Attorney's Office as

soon as possible.

3. If a person is killed as a result a City investigator shall be assigned to work with the MCPD Homicide Section.
4. When a police officer discharges a weapon, the officer shall be temporarily assigned to duty within the confines of the police building. The officer shall remain on this assignment until the Criminal Investigations Unit completes all investigations, and any other organization authorized to investigate the incident (State's Attorney's Office, Attorney General's Office, Montgomery County Police Department, Federal Bureau of Investigation, or the appropriate courts).
5. When a police officer discharges a weapon and a person is either injured or killed, that officer(s) will complete his preliminary report of the incident and then be directly placed on "Administrative Leave." The senior ranking officer on the scene will complete the preliminary report if the officer is unable to complete the report.
 - a. This leave shall be without loss of pay or benefits, pending the outcome of the investigation by the State's Attorney's Office.
 - b. The assignment to Administrative Leave shall not be a presumption that the officer has acted improperly.
 - c. While on Administrative Leave, the officer shall remain available at all times for official departmental interviews and statements regarding the shooting incident, and shall be subject to recall to duty at any time.
6. All press releases relative to the incident will only be made by the City of Rockville Public Information Officer or the Chief of Police. The Chief of Police must first approve these releases.
7. If the shooting investigation progresses to a point where the placing of criminal and/or departmental charges against an officer appears probable, it shall be the responsibility of the Chief of Police, to immediately notify the President of Lodge #117 of the Fraternal Order of Police that an investigation is being conducted. The Chief of Police will apprise the President of Lodge #117 of the Fraternal Order of Police of the nature of the investigation, to afford the Lodge President the opportunity to determine if the officer is eligible to receive the services of a F.O.P. paid attorney.
8. The Officer's Bureau Commander will ensure that the following guidelines are followed:
 - a. In all cases where an officer fires on or exchanges gunfire or any person is injured or killed as a result of firearm discharge by a police officer, that officer will be required to meet with a Department-furnished psychologist within five days of the

incident. The session will remain protected by the privileged Professional Psychologist Code of Ethics.

- b. In all cases where any person has been injured or killed, as a result of a firearm discharge by a police officer, the involved officer and his family will have available to them services provided by the Employee Assistance Program. The consultation sessions will remain protected by the privileged relationship.
- c. In all cases where an officer fires or exchanges gun fire, or any person is injured or killed as a result of firearm discharge by a police officer, the involved officer will be required to re-qualify with his weapon prior to returning to on-duty status. A certified firearms training officer shall conduct the re-qualification.

VIII. TEMPORARY REMOVAL FROM DUTY

- A. Any employee, whose actions or response to resistance and aggression in an official capacity results in death or serious injury, will be placed on Administrative Leave with pay, pending review by the Chief of Police. This is not punitive in nature; it is intended to allow the Department to complete its investigation into the incident and to allow the employee to recover from the event.
- B. An employee involved in a high level response to resistance and aggression will be afforded the services of a psychologist or psychiatrist while the incident is under investigation.
- C. The Rockville City Police Department supports the Montgomery County Police Departments Peer Support Unit. Selected Rockville City officers are assigned to the unit in a decentralized capacity and remain available to provide necessary support to all personnel within the agency. Anyone needing the services of the Peer Support Unit must contact the Emergency Communications Center for activation.

IX. DISCLAIMER

This General Order is for departmental use only and does not apply in any criminal or civil proceedings. This Department policy should not be construed as creation of higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions.